

Summary of attachments

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Attachment 4: C-1 conceptual pier layout

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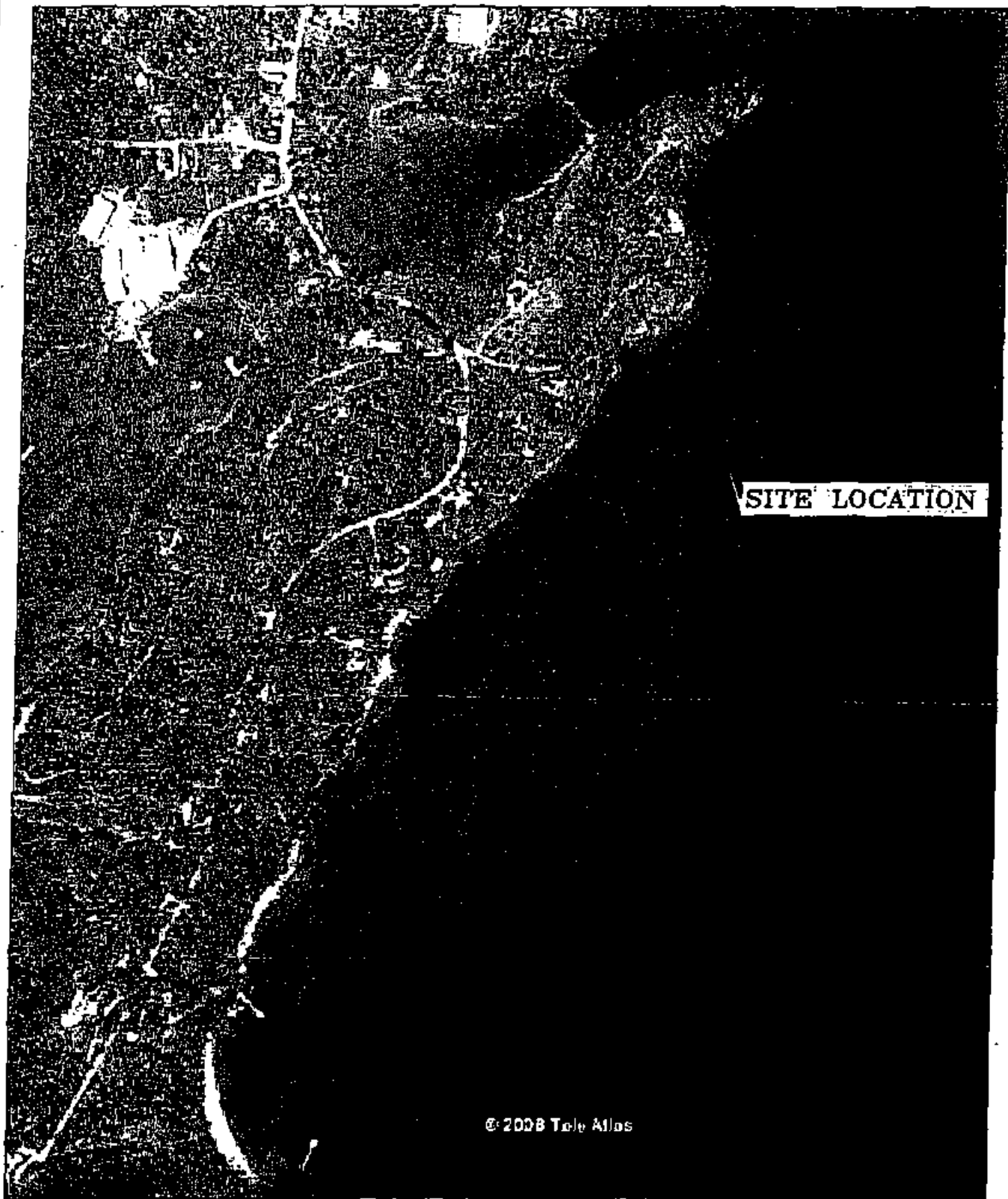
Attachment 1: map of Islesboro

Attachment 2: location map Choate property Islesboro,

Maine

Attachment 3: aerial photo Choate property Islesboro,

Maine



© 2008 Tele Atlas

AERIAL PHOTO

SCALE: 1" = 600'

Gartley & Dorsky
ENGINEERING SURVEYING

CHOATE PROPERTY
ISLESBORO, MAINE

Attachment 4: C-1 conceptual pier layout

**Attachment 5: letters from aggrieved persons joining the
appeal**

- Mrs. Laura Ault
- Mr. Harry B. Hollins
- Mr. James R. Houghton
- Mr. Nicholas T. Love

Laura Ault
189 Wharf Landing Way East
Islesboro, ME 04848

April 6, 2009

State of Maine
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Appeal filed by Dark Harbor Partners against Arthur B. Choate (L-24406-4P-A-N).

Dear Department Members,

My name is Laura Ault. I am a resident of 189 Wharf Landing Way East and an owner of land that is to the north of property owned by Arthur B. Choate on Wharf Landing Way East.

I am joining Dark Harbor Partners in appealing the licensing decision made by the Department of Environmental Protection on March 24, 2009. The license (L-24406-4P-A-N) permits Arthur B. Choate to construct a seasonal pier, ramp & float system on Wharf Landing Way East in the town of Islesboro.

Sincerely,



Laura Ault

Harry B. Hollins
115 Wharf Landing Way East
Islesboro, ME 04848

April 6, 2009

State of Maine
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Appeal filed by Dark Harbor Partners against Arthur B. Choate (L-24406-4P-A-N).

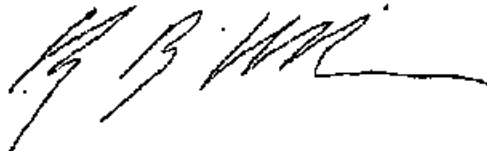
Dear Department Members,

My name is Harry B. Hollins. I am a resident of 115 Wharf Landing Way East and an abutter to the south of property owned by Arthur B. Choate on Wharf Landing Way East.

I am joining Dark Harbor Partners in appealing the licensing decision made by the Department of Environmental Protection on March 24, 2009. The license (L-24406-4P-A-N) permits Arthur B. Choate to construct a seasonal pier, ramp & float system on Wharf Landing Way East in the town of Islesboro.

Sincerely,

Harry B. Hollins

A handwritten signature in black ink, appearing to read 'H B Hollins', written over a horizontal line.

James R. Houghton
109 Wharf Landing East
Islesboro, ME 04848

April 6, 2009

State of Maine
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Appeal filed by Dark Harbor Partners against Arthur B. Choate (L-24406-4P-A-N).

Dear Department Members,

My name is James R. Houghton. I am a resident of 109 Wharf Landing Way East and an owner of land that is to the south of property owned by Arthur B. Choate on Wharf Landing Way East.

I am joining Dark Harbor Partners in appealing the licensing decision made by the Department of Environmental Protection on March 24, 2009. The license (L-24406-4P-A-N) permits Arthur B. Choate to construct a seasonal pier, ramp & float system on Wharf Landing Way East in the town of Islesboro.

Sincerely,



James R. Houghton

Nicholas Love
P. O. Box 102
102 Wharf Landing Way East
Islesboro, ME 04848

April 6, 2009

State of Maine
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Appeal filed by Dark Harbor Partners against Arthur B. Choate (L-24406-4P-A-N):

Dear Department Members,

My name is Nicholas Love. I am a resident of 102 Wharf Landing Way East and an abutter to the west of property owned by Arthur B. Choate on Wharf Landing Way East.

I am joining Dark Harbor Partners in appealing the licensing decision made by the Department of Environmental Protection on March 24, 2009. The license (L-24406-4P-A-N) permits Arthur B. Choate to construct a seasonal pier, ramp & float system on Wharf Landing Way East in the town of Islesboro.

Sincerely, *Nicholas T. Love*

Nicholas Love

Attachment 6: aggrieved persons map

2007

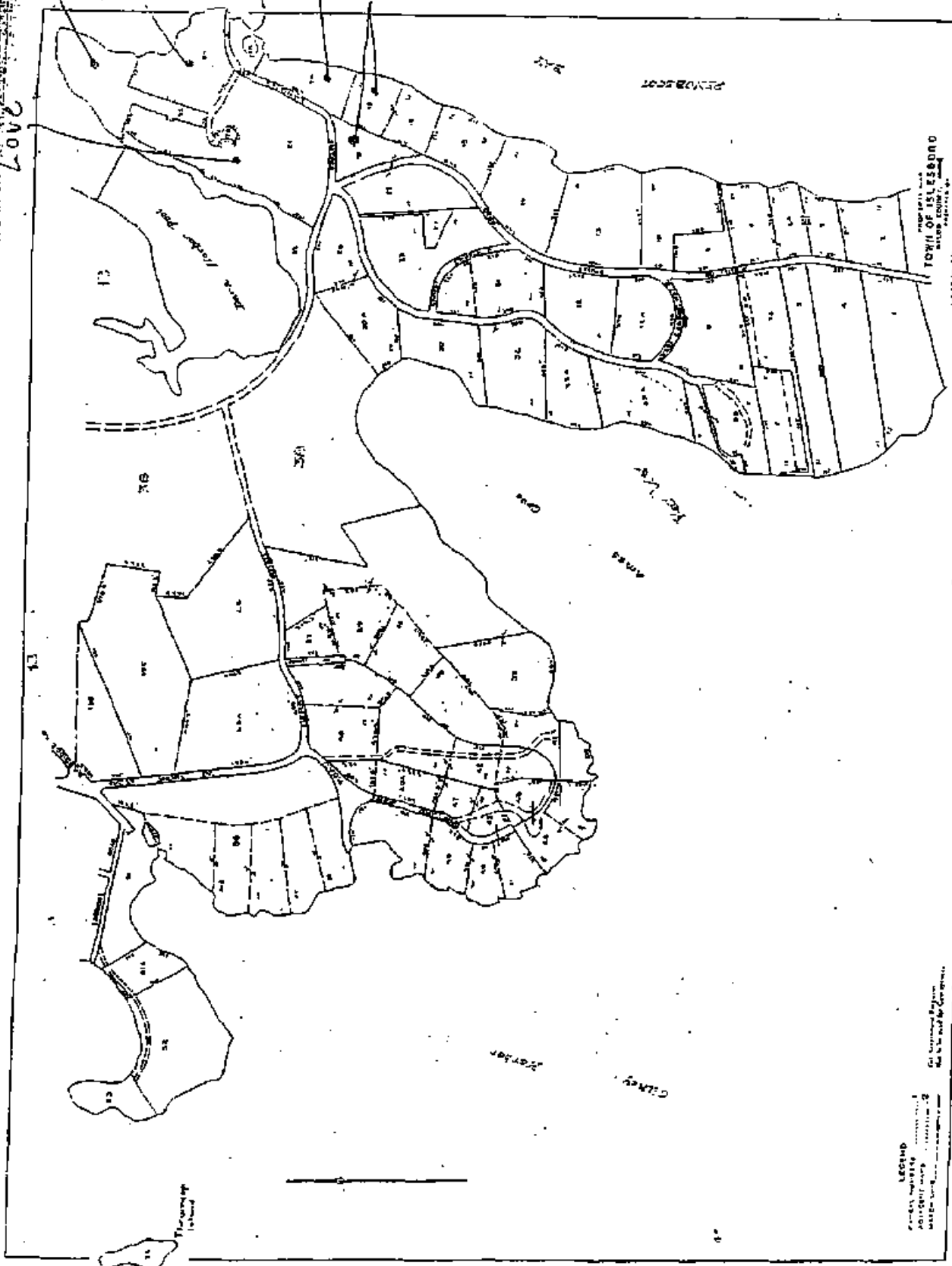
Ault

Dark Harbor
Partners

SAFE
LOCATION

Hollis

Houghton



LEGEND
.....
.....
.....

Get Information Here
Map is for informational use only

TOWN OF ISLESBORO
MAINE

Map of Islesboro, Maine, showing land parcels, roads, and water bodies. The map is oriented with North at the top.

Attachment 13: Choate Natural Resources Protection Act
application Appendix D

Natural Resource Protection Act Application
APPENDIX D: Project Description Worksheet for a Dock, Pier or Wharf
Application.

Help us process your application more efficiently by completing this worksheet, which is supplemental to a NRPA application for a dock, pier or wharf. A completed Appendix D may be substituted for Block 14 of the application page.

THIS IS AN APPLICATION FOR A.....

- ☐ Commercial wharf
If yes, indicate type of commercial activity: _____
License number: _____
Number of fishermen using this wharf: _____
- ☐ Public pier, dock or wharf
- ☐ Common or shared recreational pier, dock or wharf
- ☒ Private recreational pier, dock or wharf
- ☐ Expansion or modification of an existing structure
- ☐ Other, please indicate: _____

TELL US ABOUT YOUR BOAT....

My boat(s) requires a draft of 45 feet.
My boat(s) is 42 feet long.

TELL US ABOUT YOUR PROJECT SITE.... For coastal piers and wharves, please complete Appendix B of the NRPA application. For freshwater docks, please describe the substrate and any vegetation: SEE APPENDIX B

SCENIC CONSIDERATIONS... Please complete Appendix A of the NRPA application.

SEE APPENDIX A

WHAT FACILITIES ARE NEARBY?

The nearest public boat launch is located in _____ approximately _____ miles from the project location.
(town) (distance)

The nearest public, commercial, or private marina is located in BELEFAST approximately 0.75 miles from the project location.
(distance) (town)

☒ I have inquired about slip or mooring availability at the nearest marina or public facility.

☐ Yes, a slip or mooring is available. ☒ No, a slip or mooring is not available.

Approximate expected time on waiting list: _____

☐ I have contacted the local ^{CEC} Harbor Master. Name: BILL BRADMAN Phone: 734-6728

I currently use the following for my boat: ☐ Mooring ☐ Marina
BOAT IS IN FLORIDA

TELL US ABOUT YOUR PROPOSED PIER, DOCK OR WHARF...

MATERIALS:

- ☐ The structure will be supported by pilings.
_____ pilings of _____ inches in diameter
- ☐ The structure will be supported by stacked, flow-through granite cribs.
_____ blocks, measuring 12 feet by 16 feet
- ☐ The structure will be supported by solid fill.
_____ square feet of solid fill
- ☐ Other: _____

DIMENSIONS:

Length of fixed section: 70 feet
Width of fixed section: 5 feet
Length of ramp: 40 feet
Dimensions of float: 12 feet wide by 24 feet long
Distance the structure will extend below mean low water (MLW): 0 feet
Depth of water at the fixed end of the structure: +17.0 feet
Depth of water at the float at low tide: 7.6 feet
Depth of water at the float at high tide: 7-16.2 feet
Dimensions of any proposed buildings (e.g. bait shed): N/A
_____ feet high by _____ feet wide by _____ feet long

ACCESS:

During construction, my project site will be accessed via:

- ☒ Land
☐ Beach/intertidal area
☒ Water/barge

**Attachment 14: Choate NRPA application – relevant
information/project description**

ATTACHMENT I

RELEVANT INFORMATION/PROJECT DESCRIPTION

Tim Choate (applicant) owns property on the east shore of Islesboro, Maine. The applicant proposes to build an all-tide accessible pier with a gangway and float into Penobscot Bay for their residential property. The property is located in a residential area, with approximately 17 private residential piers located within a mile radius of the site. The property is protected from the north, west, southwest and south southwest but is open to winds from the northeast through to the south with a fetch of over 5 miles to the east (See Site Location Map, Attachment 3). Local sea traffic consists primarily of recreational boats with commercial lobster boats also fishing the area. A deep draft vessel recommended vessel route is approximately 0.6 mile east of the property. Lobster traps are not currently set in the area immediately proximate to the proposed structure. Recreational and commercial marine activities have co-existed in this area of Penobscot Bay for many years.

The shoreline of the property is rock ledge. The intertidal area is ledge. See Photographs in Attachment 4 and Attachment 9.

For estimation of Mean Low Water (MLW), the NOAA/NOS 'Tidal Differences and Other Constants' table was applied. Mean Low Water (corresponding to -4.66 NGVD 29) was used for the purpose of establishing the boundary of the intertidal and subtidal zones. Data from Maine DEP's 'Highest Annual Tide (HAT) Levels for Year 2008' table has been applied for the establishment of the upper edge of the coastal wetland. The HAT table is applicable as: the shoreline is ledge with no indicator vegetation present, and the HAT elevations 'may be used to locate the upland edge of coastal wetlands for regulatory purposes' under the Natural Resources Protection Act. For this location, HAT is interpolated as +12.1 (based on MLW). Sheet C-1, enclosed with the application, provides elevation information relative to Mean Low Water, and identifies the HAT and MLW. The DEP HAT tables are included in Attachment 12.

A pre-application meeting was held with the MDEP on October 2, 2008. The area is not mapped as a tidal waterfowl and wading bird habitat area by the Maine Department of Inland Fisheries and Wildlife (MIFW). Please refer to the DEP/IF&W Habitat Map, Appendix 12. Similarly, the area is not mapped as an eelgrass area by the Department of Marine Resources. Please refer to the DMR map, Appendix 12.

The owner proposes to construct a pier with an overall fixed pier length of 70 feet, a gangway, and float. The fixed pier extends over the intertidal zone 60' beyond the HAT and stops short of MLW by approximately 10 feet. The location was chosen based on the topography of the ledge in the area. The pier is proposed to be supported in the intertidal zone by one granite block foundation, pinned to ledge, approximating 10'x10' and 100 square feet of footprint area. There are large cut granite blocks present in the surrounding tidal and subtidal area from a preexisting structure. If possible, some of these blocks will be recovered and used as the support for the pier. The Department of Marine Resources was contacted for a preliminary opinion on the option of utilizing these existing blocks - a copy of their positive response is attached in Appendix 12. The length and area of indirect impact of the pier is 50 feet and 250

square feet, respectively, representing the portion of the pier beyond the HAT that is not counted in the direct impact of the foundation.

The proposed design includes a seasonal 3' x 40' gangway and 15' x 25' float. These seasonal elements combine for a maximum total length and area of 65 feet and 495 sf, respectively (excluding overlap). The length and of the fixed pier over the resource (beyond HAT) is +/- 60'. The seasonal gangway/float combine for an additional 55' in length.

The proposed pier will have 100 sf (10x10) of direct impact on intertidal habitat at the location of the granite base and 6 sf of direct impact on subtidal habitat due to the placement of six new piles located below MLW. To the extent possible, existing blocks presently lying in the adjacent intertidal zone will be reused. There is no proposed direct impact to the subtidal habitat. The proposed pier has 250 sf of permanent indirect impact on the intertidal habitat. The proposed gangway/float has no more than 495 sf of seasonal indirect impact on the intertidal (60 sf) and subtidal (435 sf) habitat.

Regarding the existing site conditions of the property, MDEP NRPA Appendices A, B and D are enclosed in Attachment 9. The site visit and research conducted to complete these appendices conclude that:

- 1) there are no eelgrass beds in the vicinity of the project that would be affected by the pier, per DMR Coastal Eelgrass Distribution Map (Attachment 12),
- 2) the intertidal and subtidal habitats do not support any vegetation that would be impacted by shading,
- 3) resuspension of sediments or scouring from boat operations around the float is expected to be minimal since the pier is designed to be accessible at all tides and the bottom profile is more hard surface,
- 4) placement of one granite foundation is not expected to cause any substantial changes in tidal or river flow, water circulation patterns, salinity or flushing rates,
- 5) while the project site is within the distinct population segment for the federally listed endangered wild Atlantic Salmon, impacts to the wild Atlantic Salmon will be negligible since this fish is not known to utilize the shoreline in the area, and
- 6) no other endangered species are reported within a mile of the project site. These conclusions support the position that the proposed pier, as designed, will cause negligible harm to the habitat.

The pier and float will be constructed in a manner which will have minimal impact on navigation, the environment, and other parties. The pier will be supported with one granite foundation in the intertidal zone to minimize the direct impact on the resource in a ledge environment. The gangway and float will be seasonally in-place, with the gangway stored on the pier and the float stored above the HAT (in the upland) during the winter months.

The applicant investigated the use of public and private mooring and slip availability in the immediate area. There are no marinas on the island, so there is an absence of slip space. A waiting list exists for available moorings at the Ferry Dock and at Big Tree. The applicant does not have the opportunity to share a private pier. The closest private pier is 0.6 miles to the south.

The proposed structure will provide the applicant's boat to be located at their residence, providing reasonable access to navigable water. The location of the structure will also allow the applicant to monitor the watercraft to maximize the security compared to a remote, unmonitored location.

The aesthetics of the proposed pier will blend in with the existing developed viewscape of the area. The pier as designed will be screened from the view of the abutting neighbors. The location and scale of the proposed pier is comparable with the existing visual quality and landscape characteristics found within the viewshed of the scenic resources in the project area. See the attached Appendix A: MDEP Visual Evaluation in Attachment 9, Site Conditions.

Based on the foregoing, this NRPA permit application is presented to the MDEP for the construction of a pier. The US Army Corp of Engineers will screen this application and apply the standards of a Category 2 permit for Structures and Floats in Navigable Waters of the United States. As required, a Town of Islesboro Flood Hazard Development permit will be completed. A Department of Conservation Submerged Lands Lease be required since no portion of the pier is installed below MLW.

Attachment 15: Nakomis Nelson letter to DEP

(12/10/2008)

DAMARIS A. DIFFIN
Town Manager

TOWN OF ISLESBORO
P.O. BOX 76
150 MAIN ROAD
ISLESBORO, MAINE 04848
(207) 734-2253
FAX NO. (207) 734-8394

December 10, 2008

To Whom It May Concern:


On November 26, 2008 Harbor Committee member Bob Clayton and myself inspected the site for a new pier permit for the Choate family on the south eastern shore of Islesboro.

It is of our opinion that this location will not create any navigational hazards and will only minimally impact the fixed gear lobster fishery.

However, we were concerned that the location is extremely exposed to the prevailing fall storm wind direction (SE) and to the winter storm direction (NE). Likely this pier would not be being used at those times. However, even a summer southerly creates a good swell in the area of the proposed float. Additionally, there is a question of ownership to the abandoned granite blocks specified in the plans. The location of the historic steamboat wharf (source of granite) is now on two different pieces of property.

Lastly, our code enforcement officer made the point that there is some question of how long a granite block can sit abandoned on the sea floor before it becomes part of the seafloor. The granite in question lies scattered both in and below MLW and is covered in marine vegetation. Not knowing what stones are intended for use it is hard to take stock of the potential impact to seafloor habitat.

Thank you,



Nakomis Nelson
Town of Islesboro, ME
Chair, Harbor Committee

Attachment 16: Gartley & Dorsky letter to DEP 1/29/2009

Gartley & Dorsky

ENGINEERING & SURVEYING

January 29, 2009

Beth Callahan
Maine DEP
17 State House Station
Augusta, ME 04333-0017

Subject: Choate Property
MDEP NRPA L-24406-4P-A-N

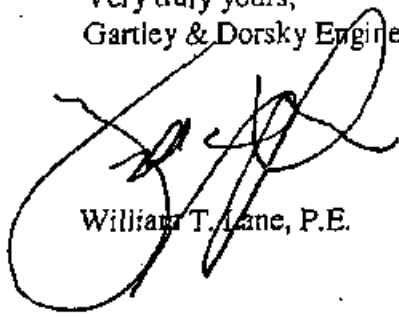
Dear Beth:

Recently you provided Gartley & Dorsky with public comments on the proposed pier at the Choate property. You asked us to address specific comments, enumerated below:

1. *Availability of docking facilities at the Tarratine Club (comment from Mr. Thomas):* We understand from a member of the Tarratine Club that it does not allow members to have boats on the floats other for loading and offloading passengers. We further understand that only dinghies are allowed at the dock for longer durations.
2. *Family dock/float on the western side of Islesboro (comment from Mr. Thomas):* The Choate relative that owns a dock on the western side of the island has not extended permission to the applicant. Mr. Choate does not hold rights to continually use that property in any manner. The security issues relating to remote docking of the applicant's boat is addressed in the application.
3. *Proposed pier location is exposed to prevailing fall storm wind direction and winter storm direction (comment from Harbor Committee):* The pier is designed to account for the prevailing storm wind directions, including granite supports. An inspection of recent aerial photography indicates there are other piers on the eastern side of Islesboro, including some depicted in the submission. Structures on other islands as well as the eastern coast of the mainland that are regularly built to account for these winds.
4. *Is the granite block part of the seafloor (CEO/Harbor Committee comment):* The Department of Marine Resources has provided a preliminary response on this matter. The suggestion provided by DMR is to utilize open stacking, as depicted in the submission, to allow for movement of materials through the construction, and increasing the available surface area to support biological growth. We believe that the appropriate actions, in consultation with the germane regulatory body, are presently proposed to support reuse of the granite blocks.

If you have questions regarding this application, please feel free to contact me directly at (207) 236-4365.

Very truly yours,
Gartley & Dorsky Engineering & Surveying, Inc.

A handwritten signature in black ink, appearing to read 'William T. Lane', is written over the printed name. The signature is stylized with large, sweeping loops.

William T. Lane, P.E.

cc: Arthur Choate
Stephen G. Smith, Architect

Attachment 17: James R. Houghton letter to DEP

James R. Houghton
Chairman of the Board

Corning Incorporated
80 East Market Street
Corning, NY 14830

1 607 974 8332
1 607 974 8444

houghtonjr@corning.com
www.corning.com

January 20, 2009

Department of Environmental Protection
Bureau of Land and Water Quality
17 State House Station
Augusta, ME 04333

 **CORNING**
Discovering Beyond Imagination

RE: Request by Arthur B. and Irka Choate for permit to construct a pier and seasonal float on the east side of Islesboro.

Dear Department Members:

I am writing as a citizen who lives on Islesboro and whose land is near the Choate property on Wharf Landing Way East. It is my understanding that the Choates have asked for permission to construct a pier and seasonal float from their land going out into the East Bay. Their land directly abuts land to the north owned by Landon Thomas and to the south by Harry Hollins. My land is just to the south of the Hollins property and the Choate land is very visible to me.

I strongly oppose the idea of a dock going eastward from the Choate property and would urge the department to turn down the Choate request – for several reasons.

First, the East Bay side of Islesboro is a wild stretch of water and is subject to many substantial storms that make it a less than ideal spot for docks or for landing boats. (Note the few docks on that side of the island). That is one of the reasons why I have never considered a dock in the forty plus years I've resided there.

Second, and perhaps more importantly, the Choate residence has had access to the West side of Islesboro – less than five minutes by car (10-15 minutes by foot) from their land. We've always felt comfortable using the west side, Gilkey's Harbor, as a more than adequate place to moor boats safely and to dock them as appropriate. I would assume that because of the Choate's membership in the Tarratine Club, they have full access to docking facilities five minutes from their home. In addition, they have access to another family dock on the west side of Islesboro, less than 5 minutes by car from their

residence. If I am correct above, they would be less than 10 minutes from safe water and dockage on the west side of the island.

Finally, there is the aesthetic question. The East Bay is, for the most part, very unspoiled. The view that we all have looking out towards North Haven and Isle au Haut has been virtually untouched for thousands of years and I would hope we could keep it that way.

In summary, I strongly oppose the construction of a dock by the Choates. It is not needed. Much better and safer docking facilities are a few minutes walk away. Also, a new dock would be a detriment to the purity of the East Bay environment.

Thank you for your consideration of the points I've raised.

Very sincerely yours,

CC: Islesboro Planning Board
Islesboro Harbor Master
Mrs. Lee Ault
Mr. & Mrs. Arthur Choate
Mr. & Mrs. Harry Hollins
Mr. Nicholas Love
Mr. Landon Thomas

JRH: tm

Attachment 19: DEP Visual Impact of Development Matrix

Visual Impact of Development Matrix

IMPACT SEVERITY RATING

	Severe 36-27	Strong 26-18	Moderate 17-9	Low 8-0
Extreme				
High				
Medium			X	
Low				

SCENIC SIGNIFICANCE OF VIEW

Legend

	UNACCEPTABLE. High level of visual contrast in line, form, color, or texture between existing landscape and the development proposal; view of water or other significant visual resource obstructed. Visual impacts are unreasonable even with mitigation and can not be offset by compensation.
	ACCEPTABLE WITH MITIGATION & COMPENSATION. High degree of contrast on landscape. Project impacts may be minimized further through mitigation. Visual impacts may be acceptable with mitigation and appropriate compensation.
	ACCEPTABLE WITH MAJOR MITIGATION. Visual impacts are acceptable with some modification to project siting or design to achieve better landscape "fit."
	ACCEPTABLE WITH MINOR MITIGATION. Visual impacts are acceptable with minor adjustments to plan or siting necessary to achieve a higher level of project compatibility with existing landscape.
X	ACCEPTABLE. Visual impacts are acceptable and result in no perceptible change to the visual landscape. No mitigation required.

The visual analysis matrix should be filled out by the DEP project manager for each application pursuant to the Natural Resources Protection Act (NRPA). The Matrix is the DEP's method for reviewing visual impacts and determining level of effort required for mitigation/reconsideration of project siting and design and/or the potential need for compensation of project impacts.

Project Manager Analysis & Recommendation:

2/10/09

Tide was too high to see steamship
wharf remnants.

Present: Beth Callahan & Amy Lenehan

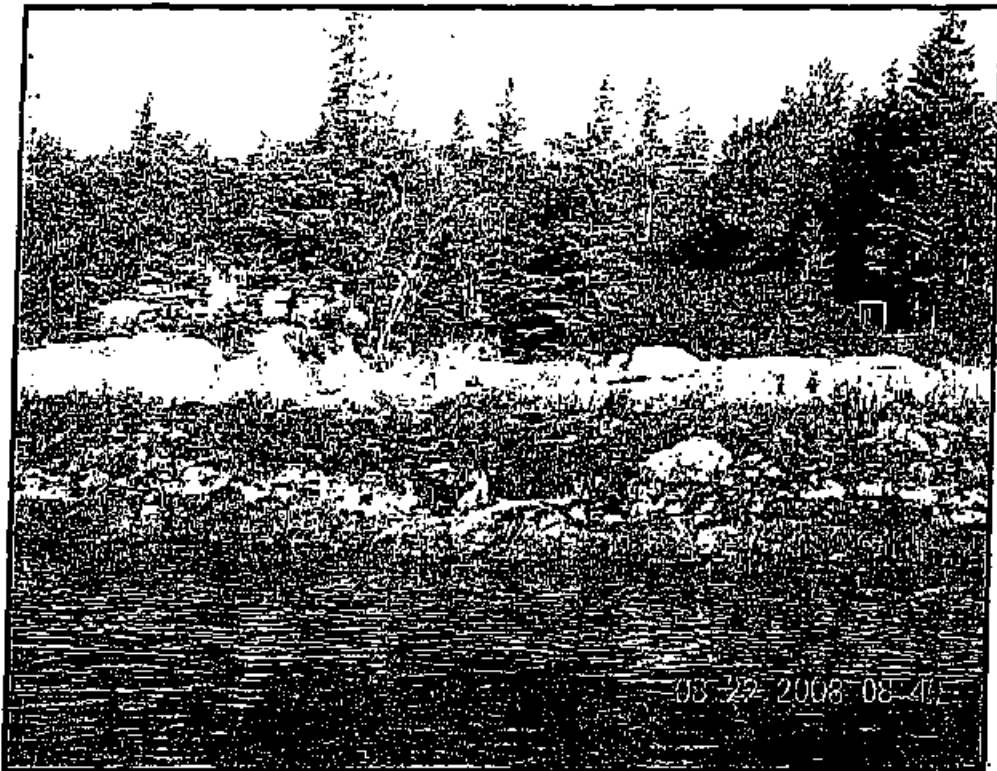
Visual Impact Severity Rating

			SCORING	
VISUAL ELEMENTS	VISUAL SUBELEMENTS	INDICATORS/CLUES	ELEMENT RATINGS	ELEMENT SCORE
LANDSCAPE COMPATIBILITY	COLOR	Significantly different color, hue, value, chroma	3 Severe	1
			2 Moderate	
			1 Minimal	
			0 None	
	FORM	Incompatible 2/3 dimensional shape with landscape surroundings	3 Severe	2
			2 Moderate	
			1 Minimal	
			0 None	
	LINE	Incompatible edges, bands, or silhouette lines introduced	3 Severe	2
			2 Moderate	
			1 Minimal	
			0 None	
	TEXTURE	Incompatible textural grain, density, regularity or pattern	3 Severe	1
			2 Moderate	
			1 Minimal	
			0 None	
SUBTOTAL →			6	
SCALE CONTRAST				
Major scale introduction/intrusion		12 Severe		
One of several major scales or major objects in confined setting		8 Moderate		
Significant object or scale		4 Minimal		
Small object or scale of activity		0 None		SCORE
				4
SPATIAL DOMINANCE				
LANDSCAPE SITUATION BACKDROP	Object/activity dominates or is prominent in whole landscape composition; or is predominantly situated within the landscape; or dominates landform, water or sky backdrop.			
		Minimal		
TOTAL VISUAL IMPACT SEVERITY		SCORE		10

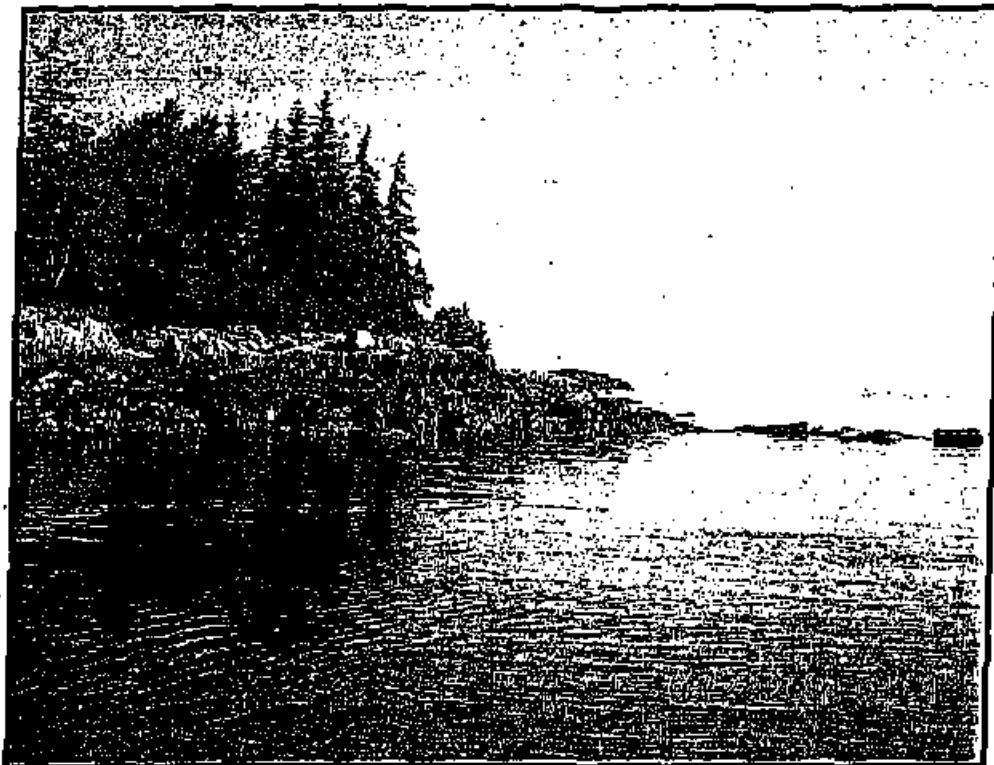
Figure 12.9. Second revision of basic VIA Form. Source: Smardon, R.C. and Hunter, M., 1983, Procedures and Methods for Wetland and Coastal Area Impact Assessment (VIA). In R.C. Smardon, ed., *The Future of Wetlands: Assessing Visual-Cultural Values*. NJ: Allenheld, Osmun, 202. (Used with permission of R.C Smardon)

Attachment 20: Pictures 1-4 Choate property Islesboro,

Maine



PICTURE 1
PROPOSED PIER SHORELINE



PICTURE 2
PROPOSED PIER LOCATION



PICTURE 3
AREA OF PROPOSED PIER



PICTURE 4
EXISTING GRANITE TO BE REUSED